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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/299,124	04/26/1999	LOTHAR E. S. BUDIKE JR.	PWB-119C	2866
30827	7590	01/26/2006	EXAMINER	
MCKENNA LONG & ALDRIDGE LLP			DIXON, THOMAS A	
1900 K STREET, NW			ART UNIT	
WASHINGTON, DC 20006			PAPER NUMBER	

3639

DATE MAILED: 01/26/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/299,124

Applicant(s)

BUDIKE, LOTHAR E. S.

Examiner

Thomas A. Dixon

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 01 August 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 42-78 and 80 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 58-73 is/are allowed.
- 6) ☒ Claim(s) 42-57, 74-78 and 80 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 01 August 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

***Request for Continued Examination***

1. The request filed on 4/13/05 for a Request for Continued Examination (RCE) based on parent Application No. 09/299,124 is acceptable and an RCE has been established. An action on the RCE follows.

***Terminal Disclaimer***

2. The terminal disclaimer filed on 5/6/02 disclaiming the terminal portion of any patent granted on this application which would extend beyond the expiration date of 6,122,603 has been reviewed and is accepted. The terminal disclaimer has been recorded

***Drawings***

3. New corrected drawings in compliance with 37 CFR 1.121(d) are required in this application because the drawings submitted 8-1-05, though technically compliant are of poorer quality than the previous drawings.

Applicant is advised to employ the services of a competent patent draftsman outside the Office, as the U.S. Patent and Trademark Office no longer prepares new drawings. The corrected drawings are required in reply to the Office action to avoid abandonment of the application. The requirement for corrected drawings will not be held in abeyance.

***Claim Objections***

4. As per Claims 42 and 75, the phrases "cost of resource generation" and "cost of resource regeneration" are used, the body of the claims do not perform these functions

and it is unclear if both these terms supported by the original specification. Applicant is requested to comment and if necessary amend these claims.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claim 42 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Specifically, the phrase “and cost of resource generation” is confusing as this function in the preamble is not performed in the body of the claim.

6. Claim 74 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Specifically, the phrase “said interface gateway” is confusing as “a)” has at least two interface gateways.

7. Claims 75-78, 80 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Specifically, the preambles refer to “the system of claim 74” but claim 74 has been amended to be a “user interface” so the “system” lacks antecedent basis.

8. Claim 75 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Specifically, the phrase "and cost of resource regeneration" is confusing as this function in the preamble is not performed in the body of the claim.

***Claim Rejections - 35 USC § 101***

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

9. Claim 74 is rejected under 35 U.S.C. 101 because the claimed invention lacks patentable utility and is inoperative.

Specifically, the user interface is seen to be a screen with icons on it, but the plurality of icons and subscreens never positively recite the performance of any function related to a multi-utility energy control system for monitoring consumption, and cost of a resource regeneration.

Further the claims that depend from this claim are all to a system, and as claimed the system is inoperative as it has no structure to receive the data necessary to perform the functions recited and have no structure to present any data.

***Claim Rejections - 35 USC § 102***

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

10. Claims 74-78,80 are rejected under 35 U.S.C. 102(b) as being anticipated by Wojcik et al (5,666,493).

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As per Claims 74-78, 80.

Wojcik et al (493) discloses:

a dashboard screen having a plurality of icons, see figure 3; and

a plurality of subscreens, see figure 3.

The other limitations of the claims have no patentable weight and do not distinguish over the prior art.

### ***Allowable Subject Matter***

11. The following is a statement of reasons for the indication of allowable subject matter:

As per Claims 58.

The prior art of record, specifically, Schlect et al (285), Takriti et al (403), Schrock et al (858) Cmar (084) Ishimaru et al (710), MacLean (688), Wojcik et al (493) and Beaty do not disclose or fairly teach:

a central control computer connected to a multi-utility master meter device and a plurality of individual utility consuming systems within a facility, said computer having software adapted to receive utility consumption rate data from said multi-utility master meter and for storing, presenting analyzing and reporting from said data information to monitor consumption rates and to compare such information to theoretical or historical data to identify unexpected changes in consumption and to identify peak demands, surges, and sags; and

control said utility consuming systems by adjusting actual utility consumption in response to predetermined parameters set for each of said utility consuming systems, said software comprising:

a dashboard screen and a plurality of utility subscreens relating thereto, said dashboard screen including one screen which provides a plurality of utility type icons for selection of a utility from said icons and at least two interface gateways for selection of utility-facility operations and related data; and

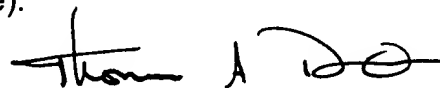
a plurality of subscreens for presenting i) said selectable utility-facility operations related data from said utility type icons and ii) selectable utility related data from said interface gateway.

**Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thomas A. Dixon whose telephone number is (571) 272-6803. The examiner can normally be reached on Monday - Thursday 6:30 - 4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Hayes can be reached on (571) 272-6708. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Thomas A. Dixon  
Primary Examiner  
Art Unit 3639

January 06